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Technology Center 2100

BANNER & WITCOFF, LTD.
1100 13th Street, N.W.
Suite 1200
Washington, DC 20005-4051

In re Application of: Morteza KALHOUR)	
Application No. 09/814,182)	DECISION ON PETITION TO
Attorney Docket No. Q63616)	WITHDRAW HOLDING OF
Filed: March 22, 2001)	ABANDONMENT UNDER 37 CFR
For: COMMUNICATION METHOD, A)	§1.181
NETWORK AND A TERMINAL USING)	
SAID METHOD)	

This is a decision on the petition, filed August 26, 2005, requesting the Withdrawal of the Holding of Abandonment of the above-identified application, which has been treated as a petition to withdraw the holding under 37 CFR §1.181. This application was held abandoned for failure to timely respond to the Office action (non-final) mailed August 20, 2004. A Notice of Abandonment was mailed on June 17, 2005. The status requests filed May 11, 2006, January 3, 2007 and February 26, 2007 are hereby acknowledged. The delay in treatment of the instant petition is regretted.

In support of the petition, applicants' representative provides a statement that the Notice of Allowance was not received and a statement from the person who would have handled the Office action had it been received.

According to the MPEP §711.03(c), the showing required to establish nonreceipt of an Office action includes the following:

- 1) *a statement from practitioner that the Office action was not received;*
 - 2) *a statement from practitioner that the file jacket and docket records were searched;*
 - 3) *a copy of the docket record at the address of record; and*
 - 4) *a reference to the docket record in the practitioner's statement.*
- [Emphasis added]**

The petition fails to fully comply with requirements 2 and 3 set forth above. The evidence submitted has not overcome the presumption of receipt.

The statement from practitioner must be a clear statement that the file jacket and docket records were searched. The copy of the docket record at the address of record at the time the non-received Office communication would have been entered had it been received and docketed,

must be attached to and referenced in practitioner's statement. A clear indication should be made that the docket record provided is from *the address of record at the time the action would have been received*. The docket record identified above is also required to be a docket record showing all actions due by the entire firm *at and around the due date for response*, not counting any possible extensions of time. The dates provided in the docket record accompanying the instant petition appear to be Saturday, November 20, 2004 and Sunday, February 20, 2005, neither of which are business days on which the USPTO receives mail. Note, Monday, February 21, 2005 was a federal holiday.

Further, the firm's docket number associated with the docket record provided in the instant petition (i.e. 1124.41778X00) is not consistent with the docket number of the instant application (i.e. Q63616).

In addition, the attorney must also have been at the address of record at the time the action was mailed or have filed a timely Change of Correspondence address.

The petition is **DISMISSED**.

If petitioner desires further review of this decision, petitioner should file a Request for Reconsideration within two (2) months of the mailing date of this decision. Telephone inquiries should be directed to the undersigned at (571) 272-3595.



Brian L. Johnson
Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and Information Security